

## REMARKS

In the Office Action dated July 24, 2008, claims 1, 3-6, 8-12, 14, 16-19, and 21-25 were presented for examination. Claims 1, 3-6, 8-12, 14, 16-19, and 21-25 were rejected under 35 U.S.C. §103(a) under the combination of *Short et al.*, U.S. Patent No. 6,178,529, in view of *Szabo et al.*, U.S. Patent No. 7,065,746, and further in view of *Frank et al.*, U.S. Patent No. 6,871,222, and the combination of *Short et al.*, U.S. Patent No. 6,178,529, in view of *Szabo et al.*, U.S. Patent No. 7,065,746, in view of *Frank et al.*, U.S. Patent No. 6,871,222, and further in view of *Thomas et al.*, U.S. Patent No. 6,460,052.

Applicant's remarks to *Short et al.*, *Szabo et al.*, and *Frank et al.* in the prior communication(s) are hereby incorporated by reference.

It is the Examiner's position that combination of *Short et al.* and *Szabo et al.* teach all of the limitations of the claims with the exception of the clause that pertains to validating software compatibility of a new cluster member through use of the claimed version control record. As clearly enunciated in each of the independent claims, the version control record of Applicant maintains "all versions of each type of data structure in the shared resource." See claims 1 line 6, claim 8, lines 8 and 9, and claim 14, line 6.

In contrast to the claimed elements of Applicant's invention, *Frank et al.* pertains to a method for implementing a quorumless cluster. The membership in the cluster can be predicated on having access to a shareable storage device. As shown in Fig. 4 of *Frank et al.*, the repository 46 located in the shareable storage, includes a version number 58. However, the version number of *Frank et al.* pertains to a **version of a valid storage set**. More specifically, the version number of *Frank et al.* identifies a list of storage devices a joining node must have access to for joining the cluster. See col. Col. 3, lines 55-65. *Frank et al.* does not teach a version control record defined as a record maintaining all data structures within a shared storage resource, as claimed by Applicant. More specifically, the version number of *Frank et al.* is not the same as or equivalent to the version control record claimed by Applicant. Accordingly, the

aspect of validating software compatibility employing the version control record in *Frank et al.* is different from the claimed version control record of Applicant.

As reflected in Applicant's claims 1, 8, and 14, Applicant specifically defines the employed version control record, and how it is employed with respect to validating software compatibility. It is Applicant's position that the combination of *Short et al.*, *Szabo et al.*, and *Frank et al.* and the combination of *Short et al.*, *Szabo et al.*, *Frank et al.*, and *Thomas et al.* do not teach all of the elements of Applicant's pending claims, and specifically, the version control record and how it is employed for validating software compatibility. To establish a prima facie case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations."<sup>1</sup> Since the combinations of references as applied by the Examiner do not individually or in combination teach all of the elements of claims 1, 8, and 14, in their entirety, it is Applicant's position that the rejections are improper and should be removed. Accordingly, Applicant respectfully requests that the Examiner remove the rejection of claims 1-12, 14, 16-19, and 21-23 under 35 U.S.C. §103(a) and direct allowance thereof.

Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Accordingly, Applicant respectfully requests that the Examiner indicate allowability of claims 1, 3-6, 8-12, 14, 16-19, and 21-25, and that the application pass to issue. If the Examiner believes, for any reason, that personal communication will expedite prosecution of the application, the Examiner is hereby invited to telephone the undersigned at the number provided.

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<sup>1</sup> MPEP §2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

For the reasons outlined above, withdrawal of the rejection of record and an allowance of this application are respectfully requested.

Respectfully submitted,

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